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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,645	03/09/2007	Friedrich Stolte	10034.542	5735
39231	7590	01/05/2010	EXAMINER	
SMITH LAW OFFICE 8000 EXCELSIOR DRIVE, SUITE 301 MADISON, WI 53717			NGUYEN, TRINH T	
			ART UNIT	PAPER NUMBER
			3644	
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			01/05/2010	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/576,645	<b>Applicant(s)</b> STOLTE ET AL.	
	<b>Examiner</b> Trinh T. Nguyen	<b>Art Unit</b> 3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on Election dated 7/29/09.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 24-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 July 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/31/08</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election of Group I in the reply filed on 7/29/09 is acknowledged. However, as a result of Applicant's amendment to claims 1-14 and 17-21, it is noted that Group II is now part of Group I. Furthermore, it is noted that claims 24-26 have been withdrawn from further consideration pursuant to as being drawn to a nonelected invention and that the election is elected **without traverse** because Applicant presented no reasons explaining why the restriction requirement is improper. Therefore, the restriction requirement is still deemed proper and is therefore made FINAL.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 4,6,12,18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 4, the phrase "the predetermined threshold value is independent of an operating vacuum" is confusing since there are no definitions as to what " the predetermined threshold value" and "an operating vacuum" defines and/or implies.

In claim 6, the phrase "the predetermined threshold value is influenced by the biasing element" is confusing because it is unclear as to what the term "influenced" defined and/or intends to be encompassed.

In claim 12, the phrase “the sensor element is contactless” is confusing because it is unclear as to what the term “contactless ” defined and/or intends to be encompassed.

In claim 18, the phrase “permits air to flow from a rapid ventilation aperture” confusing because it is unclear as to what “rapid ventilation aperture” defined and/or intends to be encompassed.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Great Britain Patent 1481674 (GB'674).

GB'674 discloses a milking machine unit cylinder comprising:

a flexible element (5);

at least one sensor element (18) which detects a substantial weight on the flexible element to trigger a start signal for a milking process (as shown in Figure 2, it is noted that the movement of cylinder (1) causes some sort of pull/tension/weight on the flexible element (5) and that sensor (18) detects the pull/tension/weight on the flexible element and triggers the milking process, (see lines 66-90)); and

a rapid ventilation valve (17) in communication with the sensor element (it is noted that there must be some sort of connection/communication between valve (17)

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and sensor (18) since lines 66-70 indicates that the switch/sensor (18) opens or closes the valve (17)).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2-14, and 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Great Britain Patent 1481674 (GB'674).

With respect to all the specific components as claimed in claims 2-14, and 17-21. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the cylinder of GB'674 so as to include all the specific components as claimed, in order to provide a more versatile and efficient milking unit cylinder and thus improve the overall milking operation.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trinh T. Nguyen whose telephone number is (571) 272-6906. The examiner can normally be reached on M-F (1:30 P.M to 10:00 P.M).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mansen can be reached on (571) 272-6608. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Trinh T Nguyen/  
Primary Examiner, Art Unit 3644  
1/3/10